



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 31

CRAWFORD PLLC
1270 NORTHLAND DRIVE
SUITE 390
ST PAUL, MN 55120

COPY MAILED

JUL 27 2004

OFFICE OF PETITIONS

In re Application of :
Bruce, et al. :
Application No. 09/386,112 : **ON PETITION**
Filed: August 30, 1999 :
Attorney Docket No. AMDA.261PA :

This is a decision on the petition under 37 C.F.R. § 1.137(b),
filed July 6, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be
submitted within TWO (2) MONTHS from the mail date of this
decision. Extensions of time under 37 CFR 1.136(a) are permitted.
The reconsideration request should include a cover letter
entitled "Renewed Petition under 37 CFR 1.137(b)."

The above-identified application became abandoned as a result of
petitioner's failure to take appropriate action in a timely
manner after the decision of March 16, 2004 by the Board of
Patent Appeals and Interferences. The Notice of Abandonment,
mailed June 18, 2004, states: "This application is abandoned in
view of: The decision by the Board of Patent Appeals and
Interference rendered on 16 March 2004 and because the period for
seeking court review of the decision has expired and there are no
allowed claims."

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now
provide that where the delay in reply was unintentional, a
petition may be filed to revive an abandoned application pursuant
to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR
1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirements (1) and (3), as set forth above.

As to item (1):

The reply requirement has not been satisfied as a reply has not been submitted with the instant petition.

As to item (3):

The statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional," or language that may be construed as such, has not been submitted.

Accordingly, the petition must be dismissed.

Please note, if petitioner wishes to assert that the instant abandonment is erroneous and claims were in fact allowed by the decision rendered by the Board of Patent Appeals and Interference on March 16, 2004, petitioner should submit a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required with a petition under 37 CFR 1.181.

By mail: Mail Stop Petition (or Mail Stop AF, if filing a
petition under 37 CFR 1.181)
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

24102

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office